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9
10 **BEFORE THE**
CALIFORNIA STATE BOARD OF PHARMACY
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
12

13 In the Matter of the Accusation Against:
14 NEWLAND PHARMACY, INC.
8401 Westminster Blvd.
15 Westminster, CA 92683
16 Pharmacy Permit No. PHY 43969
17 LIEU KIEU PHAM
16260 Venus Drive
18 Westminster, CA 92683
19 Pharmacist License RPH 48698
20 DIEU-HOA THI LE
12282 Adelle Street
21 Garden Grove, CA 92841
22 Pharmacist License No. RPH 45352
23 ANNE DAI THI NGUYEN
aka DAI THI NGUYEN
24 10182 Hill Road
Garden Grove, CA 92840
25 Pharmacy Technician
26 Registration No. TCH 11922
27
28

Case No. 2625
O.A.H. No. L-2005020021
**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

1 TIEN VAN LE
2 12292 Adelle Street
3 Garden Grove, CA 92841

4 Chief Executive Officer
5 Newland Pharmacy, Inc.

6 Respondents.

7
8 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
9 above-entitled proceedings that the following matters are true:

10 **PARTIES**

11 1. Patricia F. Harris (hereinafter "Complainant") is the Executive Officer of
12 the California State Board of Pharmacy (hereinafter "the Board") and brought this action solely
13 in her official capacity. Complainant is represented in this matter by Bill Lockyer, Attorney
14 General of the State of California, through Timothy L. Newlove, Deputy Attorney General.

15 2. Respondents, NEWLAND PHARMACY, INC., LIEU KIEU PHAM,
16 DIEU-HOA THI LE, ANNE DAI THI NGUYEN aka DAI THI NGUYEN and TIEN VAN LE,
17 are represented in this matter by Herbert L. Weinberg of Van Etten, Suzumoto & Beckett, LLP,
18 1620 26th Street, Suite 6000 North, Santa Monica, CA 90404.

19 3. On December 16, 1999, the Board issued Original Pharmacy Permit
20 Number PHY 43969 to respondent NEWLAND PHARMACY, INC. (hereinafter "NEWLAND
21 PHARMACY"). This permit was in full force and effect at all times relevant to the charges
22 brought herein. The permit will expire on December 1, 2005, unless renewed.

23 4. On May 14, 1996, the Board issued Original Pharmacist License Number
24 RPH 48698 to respondent LIEU KIEU PHAM (hereinafter "PHAM"). This license was in full
25 force and effect at all times relevant to the charges brought herein. The license will expire on
26 January 31, 2006, unless renewed.

27 5. On June 15, 1992, the Board issued Original Pharmacist License Number
28 RPH 45352 to respondent DIEU-HOA THI LE (hereinafter "LE"). This license was in full force

1 and effect at all times relevant to the charges brought herein. The license will expire on
2 November 30, 2005, unless renewed.

3 6. On February 25, 1994, the Board issued Original Pharmacy Technician
4 Registration Number TCH 11922 to respondent ANNE DAI THI NGUYEN, aka DAI THI
5 NGUYEN (hereinafter "NGUYEN"). This registration was in full force and effect at all times
6 relevant to the charges brought herein. The registration will expire on April 30, 2007, unless
7 renewed.

8 7. From December 16, 1999 to the present, respondent TIEN VAN LE was
9 and currently is the Chief Executive Officer of respondent NEWLAND PHARMACY.
10 Respondent TIEN VAN LE does not hold a license issued by the Board, and is included in the
11 Accusation, Case No. 2625, under the authority of Business and Professions Code section
12 4307(c).

13 JURISDICTION

14 8. On November 1, 2004, an Accusation, Case No. 2625, was filed before
15 the Board, and is currently pending against respondents, NEWLAND PHARMACY, PHAM,
16 LE, NGUYEN and TIEN VAN LE. On November 10, 2004, the Accusation, together with all
17 other statutorily required documents, was duly served on respondents at their respective
18 addresses of record. On November 17, 2004, respondents, through attorney Herbert L.
19 Weinberg, submitted a Notice of Defense contesting the Accusation. A copy of Accusation,
20 Case No. 2625, is attached hereto as Exhibit A and incorporated herein by this reference.

21 ADVISEMENT AND WAIVERS

22 9. Respondents, NEWLAND PHARMACY (through respondent PHAM),
23 PHAM, LE, NGUYEN and TIEN VAN LE, have carefully read the charges and allegations in the
24 Accusation, Case No. 2625, and the effects of this Stipulated Settlement and Disciplinary Order.

25 10. Respondents, NEWLAND PHARMACY (through respondent PHAM),
26 PHAM, LE, NGUYEN and TIEN VAN LE, are fully aware of their legal rights in this matter,
27 including the right to a hearing on the charges and allegations in the Accusation, the right to be
28 represented by counsel at their own expense, the right to confront and cross-examine the

1 witnesses against them, the right to present evidence and to testify on their own behalf, the right
2 to the issuance of subpoenas to compel the attendance of witnesses and the production of
3 documents, the right to reconsideration and court review of an adverse decision, and all other
4 rights accorded by the California Administrative Procedure Act, and other applicable laws.

5 11. Respondents, NEWLAND PHARMACY (through respondent PHAM),
6 PHAM, LE, NGUYEN and TIEN VAN LE, voluntarily, knowingly and intelligently waives and
7 gives up each and every right set forth above.

8 **BASIS FOR DISCIPLINE**

9 12. Respondents, NEWLAND PHARMACY (through respondent PHAM),
10 PHAM, LE and NGUYEN admit to the truth of the charges set forth in the Accusation, Case No.
11 2625 (except for paragraph 25 in the Accusation), and agree that their respective licenses issued
12 under the California Pharmacy Law are subject to discipline under the statutes set forth in the
13 First, Second, Third, Fourth and Seventh Causes for Discipline in the Accusation. Respondent
14 TIEN VAN LE admits that he is subject to the Board's jurisdiction under Business and
15 Professions Code section 4307(a). Respondents agree to be bound by the Board's imposition of
16 discipline as set forth in the Disciplinary Order below.

17 **RESERVATION**

18 13. The admissions made by respondents herein are only for the purposes
19 of this proceeding, or any other proceedings in which the California State Board of Pharmacy or
20 other professional licensing agency is involved, and shall not be admissible in any other criminal
21 or civil proceeding.

22 **CONTINGENCY**

23 14. This Stipulated Settlement shall be subject to the approval of the Board.
24 Respondents, NEWLAND PHARMACY (through respondent PHAM), PHAM, LE, NGUYEN
25 and TIEN VAN LE, understand and agree that the Board's staff and counsel for Complainant
26 may communicate directly with the Board regarding this Stipulated Settlement, without notice to
27 or participation by respondents or respondents' counsel. If the Board fails to adopt this
28 Stipulated Settlement as its Order, the agreement shall be of no force or effect, it shall be

1 inadmissible in any legal action between the parties, and the Board shall not be disqualified from
2 further action in this matter by virtue of its consideration of this Stipulated Settlement and
3 Disciplinary Order.

4 15. The parties agree that facsimile signatures to this Stipulated Settlement
5 and Disciplinary Order shall have the same force and effect as original signatures.

6 16. In consideration of the foregoing admissions and stipulations, the parties
7 agree that the Board shall, without further notice or formal proceeding, issue and enter the
8 following Disciplinary Order:

9 **DISCIPLINARY ORDER**

10 **Respondent Newland Pharmacy, Inc.**

11 IT IS HEREBY ORDERED that Original Pharmacy Permit Number PHY
12 43969, issued to respondent NEWLAND PHARMACY, INC., is revoked. However, the
13 revocation is stayed and respondent NEWLAND PHARMACY is placed on probation for three
14 (3) years on the following terms and conditions.

15 1. **Obey All Laws**

16 Respondent shall obey all state and federal laws and regulations substantially
17 related to or governing the practice of pharmacy.

18 Respondent shall report any of the following occurrences to the Board, in writing,
19 within seventy-two (72) hours of such occurrence:

- 20 * an arrest or issuance of a criminal complaint for violation of any provision
- 21 of the Pharmacy Law, state and federal food and drug laws, or state and
- 22 federal controlled substances laws;
- 23 * a plea of guilty or nolo contendere in any state or federal criminal
- 24 proceeding to any criminal complaint, information or indictment.
- 25 * a conviction of any crime; and
- 26 * discipline, citation, or other administrative action filed by any state and
- 27 federal agency which involves respondent's pharmacy permit or which
- 28 is related to the practice of pharmacy or the manufacturing, obtaining,

1 handling or distribution or billing or charging for of any drug, device or
2 controlled substance.

3 **2. Reporting to the Board**

4 Respondent shall report to the Board quarterly. The report shall be made either
5 in person or in writing, as directed. Respondent shall state under penalty of perjury whether there
6 has been compliance with all the terms and conditions of probation. If the final probation report
7 **is not** made as directed, probation shall be extended automatically until such time as the final
8 report is made and accepted by the Board.

9 **3. Interview with the Board**

10 Upon receipt of reasonable notice, respondent shall appear in person for
11 interviews with the Board upon request at various intervals at a location to be determined by the
12 Board. Failure to appear for a scheduled interview without prior notification to Board staff shall
13 be considered a violation of probation.

14 **4. Cooperation with Board Staff**

15 Respondent shall cooperate with the Board's inspectional program and in the
16 Board's monitoring and investigation of respondent's compliance with the terms and conditions
17 of her probation. Failure to cooperate shall be considered a violation of probation.

18 **5. Reimbursement of Board Costs**

19 Respondent shall pay to the Board its costs of investigation and prosecution in the
20 amount of \$7,000.

21 Respondent shall make said payment as follows: quarterly payments of \$1,750 for
22 the first year of probation.

23 The filing of bankruptcy by respondent shall not relieve respondent of her
24 responsibility to reimburse the Board its costs of investigation and prosecution.

25 If respondent fails to pay the costs as specified by the Board on or before the
26 date(s) determined by the Board, the Board shall, without affording the respondent notice and the
27 opportunity to be heard, revoke probation and carry out the disciplinary order that was stayed.

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6. Probation Monitoring Costs

Respondent shall pay the costs associated with probation monitoring as determined by the Board each and every year of probation. Such costs shall be payable to the Board at the end of each year of probation. Failure to pay such costs shall be considered a violation of probation.

7. Status of License

Respondent shall, at all times while on probation, maintain a current license with the Board. If respondent submits an application to the Board, and the application is approved, for a change of location, change of permit or change of ownership, the Board shall retain continuing jurisdiction over the license, and the respondent shall remain on probation as determined by the Board.

8. License Surrender while on Probation/Suspension

Following the effective date of this Decision, should respondent cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, respondent may tender her license to the Board for surrender. The Board shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of license, respondent will no longer be subject to the terms and conditions of probation.

Upon acceptance of the surrender, respondent shall relinquish his or her pocket license to the Board with ten (10) days of notification by the Board that the surrender is accepted. Respondent may not reapply for any license from the Board for three (3) years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the Board.

9. Notice to Employees

Respondent shall, upon or before the effective date of this Decision, ensure that all employees involved in permit operations are made aware of all the terms and conditions of probation, either by posting a notice of the terms and conditions, circulating such notice, or both. If the notice required by this provision is posted, it shall be posted in a prominent place and shall

1 remain posted throughout the probation period. Respondent shall ensure that any employees
2 hired or used after the effective date of this Decision are made aware of the terms and conditions
3 by posting a notice, circulating a notice, or both.

4 "Employees" as used in this provision includes all full-time, part-time, temporary
5 and relief employees and independent contractors employed or hired at any time during
6 probation.

7 **10. Owners and Officers: Knowledge of the Law**

8 Respondent shall provide, within thirty (30) days after the effective date of this
9 Decision, signed and dated statements from its owners, including any owner or holder of ten (10)
10 percent or more of the interest in respondent or respondent's stock, and any officer, stating said
11 individuals have read and are familiar with state and federal laws and regulations governing the
12 practice of pharmacy.

13 **11. Presentation on Drug Exports to Vietnam**

14 Respondent Newland Pharmacy and the pharmacist-in-charge must do a
15 presentation to the Vietnamese Pharmacist Association within six (6) months of the effective
16 date of this Decision on the legal requirements for sending prescription drugs to Vietnam. The
17 program must be pre-approved by the Board and respondents must notify the Board as to when
18 and where the presentation will take place.

19 **12. Violation of Probation**

20 If respondent violates probation in any respect, the Board, after giving respondent
21 notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order
22 which was stayed. If a petition to revoke probation or an accusation is filed against respondent
23 during probation, the Board shall have continuing jurisdiction, and the period of probation shall
24 be extended, until the petition to revoke probation is heard and decided.

25 If a respondent has not complied with any term or condition of probation, the
26 Board shall have continuing jurisdiction over respondent, and probation shall automatically be
27 extended until all terms and conditions have been met or the Board has taken other action as
28 deemed appropriate to treat the failure to comply as a violation of probation, to terminate

1 probation, and to impose the penalty which was stayed.

2 **13. Completion of Probation**

3 Upon successful completion of probation, respondent's pharmacy permit will be
4 fully restored.

5
6 **Respondent Lieu Kieu Pham**

7 IT IS HEREBY FURTHER ORDERED that Original Pharmacist License Number
8 RPH 48698, issued to respondent LIEU KIEU PHAM, is revoked. However, the revocation is
9 stayed and respondent is placed on probation for three (3) years on the following terms and
10 conditions.

11 **1. Actual Suspension**

12 As part of probation, respondent PHAM is suspended from the practice of
13 pharmacy for ninety (90) days, beginning on the effective date of this Decision.

14 During suspension, respondent shall not enter any pharmacy area or any portion of
15 the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other
16 distributor of drugs which is licensed by the Board, or any manufacturer, or where dangerous
17 drugs and devices or controlled substances are maintained. Respondent shall not practice
18 pharmacy nor do any act involving drug selection, selection of stock, manufacturing,
19 compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be
20 a consultant to any licensee of the Board, or have access to or control the ordering,
21 manufacturing or dispensing of dangerous drugs and devices or controlled substances.

22 Respondent shall not engage in any activity that requires the professional
23 judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of
24 pharmacy. Respondent shall not perform the duties of a pharmacy technician or an ex exemptee
25 for any entity licensed by the Board. Subject to the above restrictions, respondent may continue
26 to own or hold an interest in any pharmacy in which he or she holds an interest at the time this
27 Decision becomes effective unless otherwise specified in this Order.

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2. Tolling of Suspension

If respondent leaves California to reside or practice outside this state, for any period exceeding ten (10) days (including vacation), respondent must notify the Board in writing of the dates of departure and return. Periods of residency or practice outside the state - or any absence exceeding a period of ten (10) days shall not apply to the reduction of the suspension period.

Respondent shall not practice pharmacy upon returning to this state until notified by the Board that the period of suspension has been completed.

3. Obey All Laws

Respondent shall obey all federal and state laws and regulations substantially related or governing the practice of pharmacy.

Respondent shall report any of the following occurrences to the Board, in writing, within seventy-two (72) hours of such occurrence:

- * an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws;
- * a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment;
- * a conviction of any crime; and
- * discipline, citation, or other administrative action filed by any state and federal agency which involves respondent's pharmacist license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling or distribution or billing or charging for of any drug, device or controlled substance.

4. Reporting to the Board

Respondent shall report to the Board quarterly. The report shall be made either in person or in writing, as directed. Respondent shall state under penalty of perjury whether there has been compliance with all the terms and conditions of probation. If the final probation report

1 **is not** made as directed, probation shall be extended automatically until such time as the final
2 report is made and accepted by the Board.

3 **5. Interview with the Board**

4 Upon receipt of reasonable notice, respondent shall appear in person for
5 interviews with the Board upon request at various intervals at a location to be determined by the
6 Board. Failure to appear for a scheduled interview without prior notification to Board staff shall
7 be considered a violation of probation.

8 **6. Cooperation with Board Staff**

9 Respondent shall cooperate with the Board's inspectional program and in the
10 Board's monitoring and investigation of respondent's compliance with the terms and conditions
11 of her probation. Failure to cooperate shall be considered a violation of probation.

12 **7. Continuing Education**

13 Respondent shall provide evidence of efforts to maintain skill and knowledge as a
14 pharmacist as directed by the Board.

15 **8. Notice to Employers**

16 Respondent shall notify all present and prospective employers of the Decision in
17 Case No. 2625, and the terms, conditions and restrictions imposed on respondent by the
18 Decision. Within thirty (30) days of the effective date of this Decision, and within fifteen (15)
19 days of respondent undertaking new employment, respondent shall cause her direct supervisor,
20 pharmacist-in-charge and/or owner to report to the Board in writing acknowledging the employer
21 has read the Decision in Case No. 2625.

22 If respondent works for or is employed by or through a pharmacy employment
23 service, respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at
24 every pharmacy of the terms and conditions of the Decision in Case No. 2625 in advance of the
25 respondent commencing work at the pharmacy.

26 "Employment" within the meaning of this provision shall include any full-time,
27 part-time, temporary or relief service or pharmacy management service as a pharmacist, whether
28 the respondent is considered an employee or independent contractor.

1 9. **Consultant for Owner or Pharmacist-in-Charge**

2 Respondent shall not supervise any intern pharmacist, perform any of the duties
3 of a preceptor, or serve as consultant to any entity licensed by the Board. In the event that
4 respondent is currently the pharmacist-in-charge of a pharmacy, the pharmacy shall retain an
5 independent consultant at its own expense who shall be responsible for reviewing pharmacy
6 operations and providing a report of the review to the Board on a quarterly basis for compliance
7 by respondent with state and federal laws and regulations governing the practice of pharmacy and
8 for compliance by respondent with the obligations of a pharmacist-in-charge. The consultant
9 shall be a pharmacist licensed by and not on probation with the Board and whose name shall be
10 submitted to the Board for its prior approval within thirty (30) days of the effective date of this
11 Decision. Respondent shall not be a pharmacist-in-charge at more than one pharmacy or any
12 pharmacy of which she is not the current pharmacist-in-charge. The Board may, in case of an
13 employment change by respondent, or for other reasons as deemed appropriate by the Board,
14 preclude the respondent from acting as a pharmacist-in-charge.

15 10. **Reimbursement of Board Costs**

16 Respondent shall pay to the Board its costs of investigation and prosecution in the
17 amount of \$5,000.

18 Respondent shall make said payment as follows: quarterly payments of \$1,250 for
19 the first year of probation.

20 The filing of bankruptcy by respondent shall not relieve respondent of her
21 responsibility to reimburse the Board its costs of investigation and prosecution.

22 If respondent fails to pay the costs as specified by the Board on or before the
23 date(s) determined by the Board, the Board shall, without affording the respondent notice and the
24 opportunity to be heard, revoke probation and carry out the disciplinary order that was stayed.

25 11. **Probation Monitoring Costs**

26 Respondent shall pay the costs associated with probation monitoring as
27 determined by the Board each and every year of probation. Such costs shall be payable to the
28 Board at the end of each year of probation. Failure to pay such costs shall be considered a

1 violation of probation.

2 **12. Status of License**

3 Respondent shall, at all times while on probation, maintain an active current
4 license with the Board, including any period during which suspension or probation is tolled.

5 If respondent's license expires or is cancelled by operation of law or otherwise,
6 upon renewal or reapplication, respondent's license shall be subject to all terms of this probation
7 not previously satisfied.

8 **13. License Surrender while on Probation/Suspension**

9 Following the effective date of this Decision, should respondent cease practice
10 due to retirement or health, or be otherwise unable to satisfy the terms and conditions of
11 probation, respondent may tender her license to the Board for surrender. The Board shall have
12 the discretion whether to grant the request for surrender or take any other action it deems
13 appropriate and reasonable. Upon formal acceptance of the surrender of license, respondent will
14 no longer be subject to the terms and conditions of probation.

15 Upon acceptance of the surrender, respondent shall relinquish her pocket license
16 to the Board with ten (10) days of notification by the Board that the surrender is accepted.
17 Respondent may not reapply for any license from the Board for three (3) years from the effective
18 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
19 of the date the application for that license is submitted to the Board.

20 **14. Notification of Employment/Mailing Address Change**

21 Respondent shall notify the Board in writing within ten (10) days of any change
22 of employment. Said notification shall include the reasons for leaving and/or the address of the
23 new employer, supervisor or owner and work schedule if known. Respondent shall notify the
24 Board in writing within ten (10) days of a change in name, mailing address or phone number.

25 **15. Tolling of Probation**

26 Should respondent, regardless of residency, for any reason cease practicing
27 pharmacy for a minimum of forty (40) hours per calendar month in California, respondent must
28 notify the Board in writing within ten (10) days of cessation of the practice of pharmacy or the

1 resumption of the practice of pharmacy. Such periods of time shall not apply to the reduction of
2 the probation period. It is a violation of probation for respondent's probation to remain tolled
3 pursuant to the provisions of this condition for a period exceeding three (3) years.

4 "Cessation of practice" means any period of time exceeding thirty (30) days in
5 which respondent is not engaged in the practice of pharmacy as defined in section 4052 of the
6 Business and Professions Code.

7 **16. No New Ownership of Premises**

8 Respondent shall not acquire any new ownership, legal or beneficial interest nor
9 serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any
10 additional business, firm, partnership, or corporation licensed by the Board. If respondent
11 currently owns or has any legal or beneficial interest in, or serves as a manager, administrator,
12 member, officer, director, associate, or partner of any business, firm, partnership, or corporation
13 currently or hereinafter licensed by the Board, respondent may continue to serve in such capacity
14 or hold that interest, but only to the extent of that position or interest as of the effective date of
15 this Decision.

16 **17. Violation of Probation**

17 If respondent violates probation in any respect, the Board, after giving respondent
18 notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order
19 which was stayed. If a petition to revoke probation or an accusation is filed against respondent
20 during probation, the Board shall have continuing jurisdiction, and the period of probation shall
21 be extended, until the petition to revoke probation is heard and decided.

22 If a respondent has not complied with any term or condition of probation, the
23 Board shall have continuing jurisdiction over respondent, and probation shall automatically be
24 extended until all terms and conditions have been met or the Board has taken other action as
25 deemed appropriate to treat the failure to comply as a violation of probation, to terminate
26 probation, and to impose the penalty which was stayed.

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18. Completion of Probation

Upon successful completion of probation, respondent's license will be fully restored.

Respondent Dieu-Hoa Thi Le

IT IS HEREBY FURTHER ORDERED that Original Pharmacist License Number RPH 45352, issued to respondent DIEU-HOA THI LE is revoked. However, the revocation is stayed and respondent is placed on probation for three (3) years on the following terms and conditions.

1. Actual Suspension

As part of probation, respondent LE is suspended from the practice of pharmacy for thirty (30) days, beginning on the effective date of this Decision.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the Board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled substances.

Respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or an ex exemptee for any entity licensed by the Board. Subject to the above restrictions, respondent may continue to own or hold an interest in any pharmacy in which he or she holds an interest at the time this Decision becomes effective unless otherwise specified in this Order.

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2. Tolling of Suspension

If respondent leaves California to reside or practice outside this state, for any period exceeding ten (10) days (including vacation), respondent must notify the Board in writing of the dates of departure and return. Periods of residency or practice outside the state - or any absence exceeding a period of ten (10) days shall not apply to the reduction of the suspension period.

Respondent shall not practice pharmacy upon returning to this state until notified by the Board that the period of suspension has been completed.

3. Obey All Laws

Respondent shall obey all federal and state laws and regulations substantially related or governing the practice of pharmacy.

Respondent shall report any of the following occurrences to the Board, in writing, within seventy-two (72) hours of such occurrence:

- * an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws;
- * a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment;
- * a conviction of any crime; and
- * discipline, citation, or other administrative action filed by any state and federal agency which involves respondent's pharmacist license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling or distribution or billing or charging for of any drug, device or controlled substance.

4. Reporting to the Board

Respondent shall report to the Board quarterly. The report shall be made either in person or in writing, as directed. Respondent shall state under penalty of perjury whether there has been compliance with all the terms and conditions of probation. If the final probation report

1 is not made as directed, probation shall be extended automatically until such time as the final
2 report is made and accepted by the Board.

3 **5. Interview with the Board**

4 Upon receipt of reasonable notice, respondent shall appear in person for
5 interviews with the Board upon request at various intervals at a location to be determined by the
6 Board. Failure to appear for a scheduled interview without prior notification to Board staff shall
7 be considered a violation of probation.

8 **6. Cooperation with Board Staff**

9 Respondent shall cooperate with the Board's inspectional program and in the
10 Board's monitoring and investigation of respondent's compliance with the terms and conditions
11 of her probation. Failure to cooperate shall be considered a violation of probation.

12 **7. Continuing Education**

13 Respondent shall provide evidence of efforts to maintain skill and knowledge as a
14 pharmacist as directed by the Board.

15 **8. Notice to Employers**

16 Respondent shall notify all present and prospective employers of the Decision in
17 Case No. 2625, and the terms, conditions and restrictions imposed on respondent by the
18 Decision. Within thirty (30) days of the effective date of this Decision, and within fifteen (15)
19 days of respondent undertaking new employment, respondent shall cause her direct supervisor,
20 pharmacist-in-charge and/or owner to report to the Board in writing acknowledging the employer
21 has read the Decision in Case No. 2625.

22 If respondent works for or is employed by or through a pharmacy employment
23 service, respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at
24 every pharmacy of the terms and conditions of the Decision in Case No. 2625 in advance of the
25 respondent commencing work at the pharmacy.

26 "Employment" within the meaning of this provision shall include any full-time,
27 part-time, temporary or relief service or pharmacy management service as a pharmacist, whether
28 the respondent is considered an employee or independent contractor.

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9. No Preceptorships, Supervision of Interns, Being Pharmacist-in-Charge (PIC), or Serving as a Consultant

Respondent shall not supervise any intern pharmacist or perform any of the duties of a preceptor, nor shall respondent be the pharmacist-in-charge or serve as consultant of any entity licensed by the Board unless otherwise specified in this Order.

10. Reimbursement of Board Costs

Respondent shall pay to the Board its costs of investigation and prosecution in the amount of \$3,500.

Respondent shall make said payment as follows: quarterly payments of \$875 for the first year of probation.

The filing of bankruptcy by respondent shall not relieve respondent of her responsibility to reimburse the Board its costs of investigation and prosecution.

If respondent fails to pay the costs as specified by the Board on or before the date(s) determined by the Board, the Board shall, without affording the respondent notice and the opportunity to be heard, revoke probation and carry out the disciplinary order that was stayed.

11. Probation Monitoring Costs

Respondent shall pay the costs associated with probation monitoring as determined by the Board each and every year of probation. Such costs shall be payable to the Board at the end of each year of probation. Failure to pay such costs shall be considered a violation of probation.

12. Status of License

Respondent shall, at all times while on probation, maintain an active current license with the Board, including any period during which suspension or probation is tolled.

If respondent's license expires or is cancelled by operation of law or otherwise, upon renewal or reapplication, respondent's license shall be subject to all terms of this probation not previously satisfied.

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13. License Surrender while on Probation/Suspension

Following the effective date of this Decision, should respondent cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, respondent may tender her license to the Board for surrender. The Board shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of license, respondent will no longer be subject to the terms and conditions of probation.

Upon acceptance of the surrender, respondent shall relinquish her pocket license to the Board with ten (10) days of notification by the Board that the surrender is accepted. Respondent may not reapply for any license from the Board for three (3) years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the Board.

14. Notification of Employment/Mailing Address Change

Respondent shall notify the Board in writing within ten (10) days of any change of employment. Said notification shall include the reasons for leaving and/or the address of the new employer, supervisor or owner and work schedule if known. Respondent shall notify the Board in writing within ten (10) days of a change in name, mailing address or phone number.

15. Tolling of Probation

Should respondent, regardless of residency, for any reason cease practicing pharmacy for a minimum of forty (40) hours per calendar month in California, respondent must notify the Board in writing within ten (10) days of cessation of the practice of pharmacy or the resumption of the practice of pharmacy. Such periods of time shall not apply to the reduction of the probation period. It is a violation of probation for respondent's probation to remain tolled pursuant to the provisions of this condition for a period exceeding three (3) years.

"Cessation of practice" means any period of time exceeding thirty (30) days in which respondent is not engaged in the practice of pharmacy as defined in section 4052 of the Business and Professions Code.

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16. No New Ownership of Premises

Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any additional business, firm, partnership, or corporation licensed by the Board. If respondent currently owns or has any legal or beneficial interest in, or serves as a manager, administrator, member, officer, director, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the Board, respondent may continue to serve in such capacity or hold that interest, but only to the extent of that position or interest as of the effective date of this Decision.

17. Violation of Probation

If respondent violates probation in any respect, the Board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. If a petition to revoke probation or an accusation is filed against respondent during probation, the Board shall have continuing jurisdiction, and the period of probation shall be extended, until the petition to revoke probation is heard and decided.

If a respondent has not complied with any term or condition of probation, the Board shall have continuing jurisdiction over respondent, and probation shall automatically be extended until all terms and conditions have been met or the Board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty which was stayed.

18. Completion of Probation

Upon successful completion of probation, respondent's license will be fully restored.

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Respondent Anne Dai Thi Nguyen

IT IS HEREBY FURTHER ORDERED that Original Pharmacy Technician Registration Number TCH 11922, issued to respondent ANNE DAI THI NGUYEN, aka DAI THI NGUYEN, is publicly reprovved under the authority of Business and Professions Code section 495.

Respondent NGUYEN hereby agrees to pay to the Board its costs of investigation and prosecution in this case in the amount of \$2,000. Respondent shall make said payment as follows: quarterly payments of \$500, starting with the effective date of the Decision herein.

In the event that respondent fails to make the required payment of \$2,000, on or before the date(s) required by the Board, the Board shall, without affording the respondent notice and the opportunity to be heard, revoke respondent’s license as a pharmacy technician.

Respondent Tien Van Le

IT IS HEREBY FURTHER ORDERED that, during the time that respondent NEWLAND PHARMACY is on probation to the Board under this Stipulated Settlement and Disciplinary Order, respondent TIEN VAN LE shall not acquire any new ownership, legal or beneficial interest nor serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any additional business, firm, partnership, or corporation licensed by the Board. If respondent TIEN VAN LE currently owns or has any legal or beneficial interest in, or serves as a manager, administrator, member, officer, director, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the Board, respondent may continue to serve in such capacity or hold that interest, but only to the extent of that position or interest as of the effective date of this Decision.

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1 Disciplinary Order, respondent TIEN VAN LE shall not acquire any new ownership, legal or
2 beneficial interest nor serve as a manager, administrator, member, officer, director, trustee,
3 associate, or partner of any additional business, firm, partnership, or corporation licensed by the
4 Board. If respondent TIEN VAN LE currently owns or has any legal or beneficial interest in, or
5 serves as a manager, administrator, member, officer, director, associate, or partner of any
6 business, firm, partnership, or corporation currently or hereinafter licensed by the Board,
7 respondent may continue to serve in such capacity or hold that interest, but only to the extent of
8 that position or interest as of the effective date of this Decision.

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ACCEPTANCE

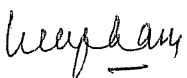
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I have carefully read and considered the above Stipulated Settlement and
Disciplinary Order. I understand the effect this Stipulation will have on my license. I enter into
this Stipulated Settlement voluntarily, knowingly and intelligently, and agree to be bound by the
Disciplinary Order and Decision of the California State Board of Pharmacy set forth herein.

19

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DATED: 6-2-2005



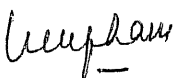
NEWLAND PHARMACY, INC.
By: LIEU KIEU PHAM
Respondent

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DATED: 6-2-2005




LIEU KIEU PHAM
Respondent

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DATED: 6-2-2005

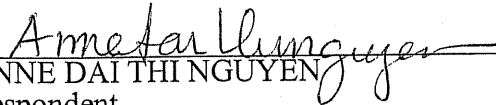


DIEU-HOA THI LE
Respondent

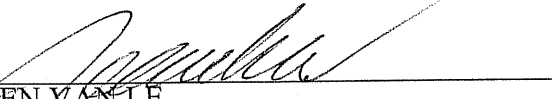
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2 DATED: 6-2-2005

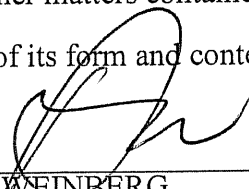

ANNE DAI THI NGUYEN
Respondent

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4
5 DATED: 6-2-2005


TIEN VAN LE
Respondent

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7
8 I have read and fully discussed with respondents, NEWLAND PHARMACY,
9 PHAM, LE and NGUYEN, the terms and conditions and other matters contained in this
10 Stipulated Settlement and Disciplinary Order, and approve of its form and content.

11
12 DATED: 6/3/05

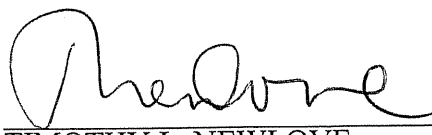

HERBERT L. WEINBERG
Van Etten, Suzumoto & Beckett, LLP
Attorneys for Respondent

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14
15 **ENDORSEMENT**

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17 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
18 submitted for consideration by the California State Board of Pharmacy in resolution of the
19 Accusation, Case No. 2625, against respondents, NEWLAND PHARMACY, INC., LIEU KIEU
20 PHAM, DIEU-HOA THI LE and ANNE DAI THI NGUYEN aka DAI THI NGUYEN.

21
22 DATED: 6-7-05

23 BILL LOCKYER, Attorney General
of the State of California

24
25 
26 TIMOTHY L. NEWLOVE
27 Deputy Attorney General

BEFORE THE
CALIFORNIA STATE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

NEWLAND PHARMACY, INC.
8401 Westminster Blvd.
Westminster, CA 92683

Pharmacy Permit No. PHY 43969

LIEU KIEU PHAM
16260 Venus Drive
Westminster, CA 92683

Pharmacist License RPH 48698

DIEU-HOA THI LE
12282 Adelle Street
Garden Grove, CA 92841

Pharmacist License No. RPH 45352

ANNE DAI THI NGUYEN
aka DAI THI NGUYEN
10182 Hill Road
Garden Grove, CA 92840

Pharmacy Technician
Registration No. TCH 11922

TIEN VAN LE
12292 Adelle Street
Garden Grove, CA 92841

Chief Executive Officer
Newland Pharmacy, Inc.

Respondent.

Case No. 2625

O.A.H. No. L-200502002 1

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California State Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on August 12, 2005.

It is so ORDERED July 13, 2005.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By


STANLEY W. GOLDENBERG
Board President

Exhibit A
Accusation No. 2625

1 BILL LOCKYER, Attorney General
of the State of California
2 TIMOTHY L. NEWLOVE, State Bar No. 73428
Deputy Attorney General
3 California Department of Justice
110 West "A" Street, Suite 1100
4 San Diego, CA 92101

5 P.O. Box 85266
San Diego, CA 92186-5266
6 Telephone: (619) 645-3034
Facsimile: (619) 645-2061

7 Attorneys for Complainant
8
9

10 **BEFORE THE**
CALIFORNIA STATE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**
12

13 In the Matter of the Accusation Against:

Case No. 2625

14 NEWLAND PHARMACY, INC.
8401 Westminster Boulevard
15 Westminster, CA 92683

ACCUSATION

16 Pharmacy Permit No. PHY 43969

17 LIEU KIEU PHAM
16260 Venus Drive
18 Westminster, CA 92683

19 Pharmacist License RPH 48698

20 DIEU-HOA THI LE
12282 Adelle Street
21 Garden Grove, CA 92841

22 Pharmacist License No. RPH 45352

23 ANNE DAI THI NGUYEN
aka DAI THI NGUYEN
24 10182 Hill Road
Garden Grove, CA 92840

25 Pharmacy Technician
26 Registration No. TCH 11922
27
28

1 TIEN VAN LE
2 12282 Adelle Street
3 Garden Grove, CA 92841

4 Chief Executive Officer
5 Newland Pharmacy, Inc.

6 Respondents.

7 The Complainant, Patricia F. Harris, for cause of Accusation against NEWLAND
8 PHARMACY, INC., LIEU KIEU PHAM, DIEU-HOA THI LE, ANNE DAI THI NGUYEN aka
9 DAI THI NGUYEN, and TIEN VAN LE, alleges as follows:

10 PARTIES

11 1. The Complainant, Patricia F. Harris, is the Executive Officer of the
12 California Board of Pharmacy (hereinafter the "Board") and makes this Accusation solely in her
13 official capacity.

14 2. On December 16, 1999, the Board issued Original Pharmacy Permit
15 Number PHY 43969 to respondent NEWLAND PHARMACY, INC. (hereinafter respondent
16 "NEWLAND PHARMACY"). At all times material herein, respondent NEWLAND
17 PHARMACY was and currently is licensed by the Board as a pharmacy. The license expires on
18 December 31, 2004, unless renewed.

19 3. On May 15, 1996, the Board issued Original Pharmacist License Number
20 RPH 48698 to respondent LIEU KIEU PHAM (hereinafter respondent "PHAM"). At all times
21 material herein, respondent PHAM was and currently is licensed by the Board as a registered
22 pharmacist. The license expires on January 31, 2006, unless renewed. At all times material
23 herein from December 16, 1999 to the present, respondent PHAM was and currently is the
24 Treasurer of respondent NEWLAND PHARMACY.

25 4. On June 15, 1992, the Board issued Original Pharmacist License Number
26 RPH 45352 to respondent DIEU-HOA THI LE (hereinafter respondent "LE"). At all times
27 material herein, respondent LE was and currently is licensed by the Board as a registered
28 pharmacist. The license expires on November 30, 2005, unless renewed. At all times material

1 herein from December 16, 1999 to the present, respondent LE was and currently is the Secretary
2 of respondent NEWLAND PHARMACY.

3 5. On February 25, 1994, the Board issued Original Pharmacy Technician
4 Registration Number TCH 11922 to respondent ANNE DAI THI NGUYEN, aka DAI THI
5 NGUYEN (hereinafter respondent "NGUYEN"). At all times material herein, respondent
6 NGUYEN was and currently is licensed by the Board as pharmacy technician. The registration
7 expires on April 30, 2005, unless renewed.

8 6. At all times material herein from December 16, 1999 to the present,
9 respondent TIEN VAN LE was and currently is the Chief Executive Officer of respondent
10 NEWLAND PHARMACY. Respondent TIEN VAN LE does not hold a license issued by the
11 Board, and is named herein in compliance with the requirements set forth in Business and
12 Professions Code section 4307(c).

13 JURISDICTION

14 7. Complainant brings this Accusation under the power vested in the Board
15 in Business and Professions Code section 4300(a) to suspend or revoke licenses issued by the
16 Board pursuant to the California Pharmacy Act, Chapter 9, Division 2, section 4000 et seq. of the
17 Business and Professions Code.

18 8. Business and Professions Code section 4005(a) provides that the Board
19 may enact regulations, *inter alia*, for the proper and more effective enforcement of the California
20 Pharmacy Act. The regulations promulgated by the Board appear in the California Code of
21 Regulations, Title 16, Division 16, section 1700 et seq., and shall be referred to herein as the
22 "Board Regulations."

23 9. Business and Professions Code section 4113(a) provides that every
24 pharmacy shall designate a pharmacist-in-charge. Business and Professions Code section
25 4113(b) provides that the pharmacist-in-charge shall be responsible for a pharmacy's compliance
26 with all state and federal laws and regulations pertaining to the practice of pharmacy.

27 10. Board Regulation 1709.1 provides, in pertinent part, that the pharmacist-
28 in-charge of a pharmacy shall be employed at that location and shall have responsibility for the

1 daily operation of the pharmacy.

2 11. Business and Professions Code section 4306.5 provides that:

3 Unprofessional conduct for a pharmacist may include acts
4 or omissions that involve, in whole or in part, the exercise of his or
5 her education, training, or experience as a pharmacist, whether or
6 not the act or omissions arises in the course of the practice of
7 pharmacy or the ownership, management, administration, or
8 operation of a pharmacy or other entity licensed by the Board.

7 FACTS

8 12. At all times material herein, respondent NEWLAND PHARMACY has
9 not been licensed by the Board as a wholesaler within the meaning of Business and Professions
10 Code section 4043.

11 13. At all times material herein, from March 6, 2000 to present, respondent
12 PHAM has been the pharmacist-in-charge for respondent NEWLAND PHARMACY.

13 14. During 2001, Board Investigators, with the assistance of a United States
14 Customs Anti-Smuggling Unit, determined that respondent NEWLAND PHARMACY, through
15 respondents PHAM, LE and NGUYEN, was exporting large amounts of dangerous drugs to
16 unknown persons in Vietnam. The scheme involved the following components. Respondent
17 NEWLAND PHARMACY obtained financing to purchase dangerous drugs for export to
18 Vietnam from various contributors. Respondent NEWLAND PHARMACY purchased large
19 amounts of dangerous drugs from drug manufacturers and wholesalers. Respondent NEWLAND
20 PHARMACY stored and packaged the dangerous drugs on premises. The packages were filed
21 with containers of certain dangerous drugs. Respondent NEWLAND PHARMACY, through
22 respondents PHAM, LE and NGUYEN, labeled the packages in a manner that indicated that the
23 shippers were individuals rather than NEWLAND PHARMACY. The packages were labeled in
24 this manner in order to avoid export laws of the United States and import laws of Vietnam.
25 Respondent NEWLAND PHARMACY, through respondents PHAM, LE and NGUYEN,
26 shipped the packages through VN Cargo, a company located in Westminster, California. VN
27 Cargo, in turn, transported the packages through airlines such as Cathay Pacific Airways. Details
28 of the scheme are described in paragraphs 15 through 25 hereinbelow.

1 15. The Drugs exported by respondent NEWLAND PHARMACY to Vietnam,
2 as described in paragraph 14 hereinabove, include the following dangerous drugs within the
3 meaning of Business and Professions Code section 4022:

<u>BRAND NAME</u>	<u>GENERIC NAME</u>	<u>INDICATIONS FOR USE</u>
4 Azulfidine	Sulfasalazine	Ulcerative Colitis, Rheumatoid Arthritis
5 Capoten	Captopril	Hypertension
6 Isordil	Isosorbide Dimitrate	Angina
7 Keflex	Cephalexin	Antibiotic
8 Lopid	Gemfibrozil	Anti-hyperlipidemic
9 Lopressor	Metoprolol	Hypertension, Angina
10 Motrin	Ibuprofen	Anti-Inflammatory, Arthritis, Non-narcotic pain reliever
11	Penicillin	Antibiotic
12 Provera	Medroxyprogesterone	Hormone replacement
13 PTU	Propylthiouracil	Anti-Tuberculosis
14 Pyridium	Phenazopyridine	Urinary dye and urinary tract anaesthetic
15	Atenolol	Hypertension, Angina
16 Tenormin	Atenolol	Hypertension, Angina
17 Trimoxicillin, Amoxil	Amoxicillin	Antibiotic
18 Vibramycin	Doxycycline	Antibiotic

19 U.S. CUSTOMS INTERCEPT

20 16. On March 29, 2001, a United States Customs Anti-Smuggling Unit at Los
21 Angeles International Airport intercepted a shipment of dangerous drugs sent by respondent
22 NEWLAND PHARMACY, through VN Cargo, to unknown persons in Vietnam.

23 17. The intercepted drug shipment consisted of sixty boxes that were either
24 square or rectangular in shape.

25 18. Each square box contained the following dangerous drugs within the
26 meaning of Business and Professions Code section 4022:

- 27 a. 1 container with 500 capsules of Doxycycline 100 mg;
28 b. 1 container with 500 capsules of Cephalexin 250 mg;

- 1 c. 2 containers, each with 1000 tablets, of Propylthiouracil 50 mg; and
- 2 d. 1 container with 500 capsules of Cephalexin 500 mg.
- 3 19. Each rectangular box contained the following dangerous drugs within the
- 4 meaning of Business and Professions Code section 4022:
- 5 a. 2 containers, each with 500 tablets, of Ibuprofen 400 mg;
- 6 b. 1 container with 500 capsules of Cephalexin 250 mg;
- 7 c. 1 container with 500 tablets of Ibuprofen 600 mg; and
- 8 d. 1 container with 500 capsules of Trimox 500 mg.
- 9 20. Each box contained a shipping label that set forth the following
- 10 information: (1) the shipping number, (2) the person from whom the box was sent, and (3) the
- 11 person in Vietnam to whom the box was sent. The shipping labels contained the following
- 12 names and addresses of persons who purportedly sent the boxes of dangerous drugs to Vietnam:
- 13 a. Lieu.Pham (Respondent PHAM)
16260 Venus Drive
Westminster, CA 92683
- 14
- 15 b. Quang Bo (Respondent PHAM'S husband)
16260 Venus Drive
Westminster, CA 92683
- 16
- 17 c. Dieu Hoa Le (Respondent LE)
12282 Adelle Street
Garden Grove, CA 92841
- 18
- 19 d. Hoa Le (Respondent LE)
12282 Adelle Street
Garden Grove, CA 92841
- 20
- 21 e. Tien Le (Respondent TIEN VAN LE)
12282 Adelle Street
Garden Grove, CA 92841
- 22
- 23 f. Le Van Tien (Respondent TIEN VAN LE)
12282 Adelle Street
Garden Grove, CA 92841
- 24
- 25 g. Tran Quoc Dung
12282 Adelle Street
Garden Grove, CA 92841
- 26
- 27 h. Anne Nguyen (Respondent NGUYEN)
13791 La Pat Place
Westminster, CA 92683
- 28

1 i. Hiep Diep
2 8252 Westminster Blvd.
3 Westminster, CA 92683

4 j. Nghia Hiep T. Diep
5 8252 Westminster Blvd.
6 Westminster, CA 92683

7 21. In all, the sixty intercepted boxes contained 180,500 capsules or tablets of
8 dangerous drugs that respondent NEWLAND PHARMACY, through defendants PHAM, LE and
9 NGUYEN, attempted to send to persons in Vietnam without a prescription, as required by
10 Business and Professions Code section 4059 (a), and without the benefit of a wholesale license,
11 as required by Business and Professions Code section 4160(a).

12 PHARMACY BOARD INVESTIGATION

13 22. In August, 2001, Board Inspectors performed an investigation of
14 respondent NEWLAND PHARMACY, which included site inspections of the pharmacy and
15 interviews of respondent PHAM.

16 23. As part of the investigation, a Board Inspector requested respondent
17 PHAM to provide records relating to the export of drugs by respondent NEWLAND
18 PHARMACY to Vietnam. Respondent PHAM was not able to produce all of such drug
19 furnishing records, informing the Board Inspector that certain records were stored at the home of
20 respondent LE.

21 24. Respondent PHAM did provide the Board Inspector with a small box of
22 records. Such records indicate that, from March 8, 2001 to August 21, 2001, respondent
23 NEWLAND PHARMACY, through respondents PHAM, LE and NGUYEN, exported
24 approximately 4,519,500 capsules or tablets of the dangerous drugs described in paragraph 15
25 hereinabove to unknown persons in Vietnam. The dangerous drugs were exported in packages
26 which falsely indicated that the senders were individuals, including respondents PHAM, LE,
27 NGUYEN and TIEN VAN LE, rather than respondent NEWLAND PHARMACY. The
28 dangerous drugs were sent to Vietnam without the authorization of prescriptions, as required by
Business and Professions Code section 4059(a), and without the benefit of a wholesale license, as
required by Business and Professions Code section 4160(a).

1 pharmacy was guilty of unprofessional conduct within the meaning of Business and Professions
2 Code section 4301(o), through a violation of Business and Professions Code section 4059(a), as
3 described in paragraph 29 hereinabove.

4 In addition, the pharmacist license held by respondent PHAM is subject to
5 discipline under Business and Professions Code section 4300, for committing unprofessional
6 conduct within the meaning of Business and Professions Code section 4301(o), in that,
7 respondent PHAM violated, attempted to violate and/or assisted in the violation of Business and
8 Professions Code section 4059(a), by exporting and attempting to export, on behalf of respondent
9 NEWLAND PHARMACY, dangerous drugs to unknown persons in Vietnam, without the
10 authorization of prescriptions for such drugs, as described in paragraphs 14 through 25
11 hereinabove.

12 31. The pharmacist license held by respondent LE is subject to discipline
13 under Business and Professions Code section 4300, for committing unprofessional conduct
14 within the meaning of Business and Professions Code section 4301(o), in that, respondent LE
15 violated, attempted to violate and/or assisted in the violation of Business and Professions Code
16 section 4059(a), by exporting and attempting to export, on behalf of respondent NEWLAND
17 PHARMACY, dangerous drugs to unknown persons in Vietnam, without the authorization of
18 prescriptions, as described in paragraphs 14 through 25 hereinabove.

19 32. The pharmacy technician registration held by respondent NGUYEN is
20 subject to discipline under Business and Professions Code section 4300, for committing
21 unprofessional conduct within the meaning of Business and Professions Code section 4301(o), in
22 that, respondent NGUYEN violated, attempted to violate and/or assisted in the violation of
23 Business and Professions Code section 4059(a), by exporting and attempting to export, on behalf
24 of respondent NEWLAND PHARMACY, dangerous drugs without the authorization of
25 prescriptions for such drugs to unknown persons in Vietnam, as described in paragraphs 14
26 through 25 hereinabove.

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1 conduct within the meaning of Business and Professions Code section 4301(o), in that,
2 respondent PHAM violated, attempted to violate and/or assisted in the violation of Business and
3 Professions Code section 4160(a), by exporting and attempting to export, on behalf of respondent
4 NEWLAND PHARMACY, dangerous drugs to unknown persons in Vietnam without holding a
5 license as a wholesaler issued by the Board, as described in paragraphs 12 through 25
6 hereinabove.

7 38. The pharmacist license held by respondent LE is subject to discipline
8 under Business and Professions Code section 4300, for committing unprofessional conduct
9 within the meaning of Business and Professions Code section 4301(o), in that, respondent LE
10 violated, attempted to violate and/or assisted in the violation of Business and Professions Code
11 section 4160(a), by exporting and attempting to export, on behalf of respondent NEWLAND
12 PHARMACY, dangerous drugs to unknown persons in Vietnam without holding a license as a
13 wholesaler issued by the Board, as described in paragraphs 12 through 25 hereinabove.

14 39. The pharmacy technician registration held by respondent NGUYEN is
15 subject to discipline under Business and Professions Code section 4300, for committing
16 unprofessional conduct within the meaning of Business and Professions Code section 4301(o), in
17 that, respondent NGUYEN violated, attempted to violate and/or assisted in the violation of
18 Business and Professions Code section 4160(a), by exporting and attempting to export, on behalf
19 of respondent NEWLAND PHARMACY, dangerous drugs to unknown persons in Vietnam
20 without holding a license as a wholesaler issued by the Board, as described in paragraphs 12
21 through 25 hereinabove.

22 THIRD CAUSE FOR DISCIPLINE

23 (Transfer of Dangerous Drugs Outside California Not In Compliance with Law)

24 40. Complainant incorporates herein by this reference the preamble and each
25 of the allegations set forth in paragraphs 1 through 25, 27 through 32, and 34 through 39
26 hereinabove.

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1 41. Business and Professions Code section 4059.5(e) provides that:

2 A dangerous drug or dangerous device shall not be
3 transferred, sold, or delivered to any person outside this state,
4 whether foreign or domestic, unless the transferor, seller, or
5 deliverer does so in compliance with the laws of this state and of
6 the United States and of the state or country to which the drugs or
7 devices are to be transferred, sold, or delivered. Compliance with the
8 laws of this state and the United States and of the state or country
9 to which the drugs or devices are to be delivered shall include, but
10 not be limited to, determining that the recipient of the drugs or
11 devices is authorized by law to receive the drug or devices.

12 42. The pharmacy permit held by respondent NEWLAND PHARMACY is
13 subject to discipline under Business and Professions Code section 4300, for committing
14 unprofessional conduct within the meaning of Business and Professions Code section 4301(o),
15 through a violation of Business and Professions Code section 4059.5(e), in that, respondent
16 NEWLAND PHARMACY transferred, sold or delivered dangerous drugs to unknown persons in
17 Vietnam in violation of the California Pharmacy Act, as described in paragraphs 27 through 32
18 and 34 through 39 hereinabove.

19 43. The pharmacist license held by respondent PHAM is subject to discipline
20 under Business and Professions Code sections 4081(b) and 4113(b) and Board Regulation
21 1709.1, in that, while acting as pharmacist-in-charge of NEWLAND PHARMACY, said
22 pharmacy was guilty of unprofessional conduct within the meaning of Business and Professions
23 Code section 4301(o), through a violation of Business and Professions Code section 4059.5(e), as
24 described in paragraph 42 hereinabove.

25 In addition, the pharmacist license held by respondent PHAM is subject to
26 discipline under Business and Professions Code section 4300, for committing unprofessional
27 conduct within the meaning of Business and Professions Code section 4301(o), in that,
28 respondent PHAM violated, attempted to violate and/or assisted in the violation of Business and
Professions Code section 4059.5(e), by transferring, selling or delivering, on behalf of respondent
NEWLAND PHARMACY, dangerous drugs to unknown persons in Vietnam, in violation of the
California Pharmacy Act, as described in paragraphs 27 through 32 and 34 through 39
hereinabove.

1 49. Business and Professions Code section 4105(a) provides that:

2 All records or other documentation of the acquisition and
3 disposition of dangerous drugs and dangerous devices by any entity
4 licensed by the board shall be retained on the licensed premises in
5 a readily retrievable form.

6 50. The pharmacy permit held by respondent NEWLAND PHARMACY is
7 subject to discipline under Business and Professions Code section 4300, for committing
8 unprofessional conduct within the meaning of Business and Professions Code section 4301(o),
9 through a violation of Business and Professions Code sections 4081(a) and 4105(a), in that, when
10 requested by a Board Inspector, respondent NEWLAND PHARMACY was not able to provide
11 all records pertaining to the sale or disposition of dangerous drugs by respondent to persons in
12 Vietnam, as described in paragraph 23 hereinabove.

13 51. The pharmacist license held by respondent PHAM is subject to discipline
14 under Business and Professions Code sections 4081(b) and 4113(b) and Board Regulation
15 1709.1, in that, while acting as pharmacist-in-charge of NEWLAND PHARMACY, said
16 pharmacy was guilty of unprofessional conduct within the meaning of Business and Professions
17 Code section 4301(o), through a violation of Business and Professions Code sections 4081(a) and
18 4105(a), as described in paragraph 50 hereinabove.

19 In addition, the pharmacist license held by respondent PHAM is subject to
20 discipline under Business and Professions Code section 4300, for committing unprofessional
21 conduct within the meaning of Business and Professions Code section 4301(o), in that,
22 respondent PHAM violated, attempted to violate and/or assisted in the violation of Business and
23 Professions Code sections 4081(a) and 4101(a) by respondent NEWLAND PHARMACY, in
24 that, respondent PHAM failed to maintain all records of the sale or disposition of dangerous
25 drugs by NEWLAND PHARMACY to persons in Vietnam on the premises of the pharmacy, as
26 described in paragraph 23 hereinabove.

27 52. The pharmacist license held by respondent LE is subject to discipline
28 under Business and Professions Code section 4300, for committing unprofessional conduct
 within the meaning of Business and Professions Code section 4301(o), in that, respondent LE

1 violated, attempted to violate and/or assisted in the violation of Business and Professions Code
2 sections 4081(a) and 4105(a) by respondent NEWLAND PHARMACY, in that, respondent LE
3 maintained records of the sale or disposition of dangerous drugs by NEWLAND PHARMACY
4 to persons in Vietnam at his residence, as described in paragraph 23 hereinabove.

5 FIFTH CAUSE FOR DISCIPLINE

6 (Commission of Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)

7 53. Complainant incorporates herein by this reference the preamble and each
8 of the allegations set forth in paragraphs 1 through 25 hereinabove.

9 54. Business and Professions Code section 4301(f) provides that
10 unprofessional conduct includes the commission of any act involving moral turpitude,
11 dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as
12 a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

13 55. The pharmacy permit held by respondent NEWLAND PHARMACY is
14 subject to discipline under Business and Professions Code section 4300, for committing
15 unprofessional conduct within the meaning of Business and Professions Code section 4301(f), in
16 that respondent committed acts of moral turpitude, dishonesty, fraud, deceit or corruption, by
17 exporting and attempting to export dangerous drugs to unknown persons in Vietnam, without
18 prescriptions that authorized the furnishing of such drugs, without holding a license as a
19 wholesaler, and by means of a scheme of subterfuge in which respondent shipped the dangerous
20 drugs in packages indicating that the sender was an individual instead of NEWLAND
21 PHARMACY in order to avoid detection by authorities in the United States and Vietnam, as
22 described in paragraphs 12 through 25 hereinabove.

23 56. The pharmacist license held by respondent PHAM is subject to discipline
24 under Business and Professions Code sections 4081(b) and 4113(b) and Board Regulation
25 1709.1, in that, while acting as pharmacist-in-charge of NEWLAND PHARMACY, said
26 pharmacy was guilty of unprofessional conduct within the meaning of Business and Professions
27 Code section 4301(f), as described in paragraph 55 hereinabove.

28 ///

1 In addition, the pharmacist license held by respondent PHAM is subject to
2 discipline under Business and Professions Code section 4300, for committing unprofessional
3 conduct within the meaning of Business and Professions Code section 4301(f), in that,
4 respondent PHAM committed acts of moral turpitude, dishonesty, fraud, deceit or corruption,
5 by participating in the scheme to export dangerous drugs from NEWLAND PHARMACY to
6 Vietnam, as described in paragraph 55 hereinabove.

7 57. The pharmacist license held by respondent LE is subject to discipline
8 under Business and Professions Code section 4300, for committing unprofessional conduct
9 within the meaning of Business and Professions Code section 4301(f), in that, respondent LE
10 committed acts of moral turpitude, dishonesty, fraud, deceit or corruption, by participating in
11 the scheme to export dangerous drugs from NEWLAND PHARMACY to Vietnam, as described
12 in paragraph 55 hereinabove.

13 58. The pharmacy technician registration held by respondent NGUYEN is
14 subject to discipline under Business and Professions Code section 4300, for committing
15 unprofessional conduct within the meaning of Business and Professions Code section 4301(f), in
16 that, respondent NGUYEN committed acts of moral turpitude, dishonesty, fraud, deceit or
17 corruption, by participating in the scheme to export dangerous drugs from NEWLAND
18 PHARMACY to Vietnam, as described in paragraph 55 hereinabove.

19 SIXTH CAUSE FOR DISCIPLINE

20 (Conduct that Subverts a Board Investigation)

21 59. Complainant incorporates herein by this reference the preamble and each
22 of the allegations set forth in paragraphs 1 through 25 hereinabove.

23 60. Business and Professions Code section 4301(q) provides that
24 unprofessional conduct includes engaging in any conduct that subverts or attempts to subvert an
25 investigation of the Board.

26 61. The pharmacy permit held by respondent NEWLAND PHARMACY is
27 subject to discipline under Business and Professions Code section 4300, for committing
28 unprofessional conduct within the meaning of Business and Professions Code section 4301(q), in

1 66. The pharmacist license held by respondent PHAM is subject to discipline
2 under Business and Professions Code sections 4081(b) and 4113(b) and Board Regulation
3 1709.1, in that, while acting as pharmacist-in-charge of NEWLAND PHARMACY, said
4 pharmacy was guilty of unprofessional conduct within the meaning of Business and Professions
5 Code section 4301(c), as described in paragraph 65 hereinabove.

6 In addition, the pharmacist license held by respondent PHAM is subject to
7 discipline under Business and Professions Code section 4300, for committing unprofessional
8 conduct within the meaning of Business and Professions Code section 4301(c), in that,
9 respondent PHAM committed acts of gross negligence for a pharmacist by furnishing dangerous
10 drugs to unknown persons in Vietnam without prescriptions for such drugs, as described in
11 paragraphs 27 through 32 hereinabove, by acting in the capacity as a wholesaler without holding
12 such a license issued by the Board, as described in paragraphs 34 through 39 hereinabove, by
13 transferring, selling or delivering dangerous drugs to persons in Vietnam in violation of the
14 California Pharmacy Act, as described in paragraphs 41 through 45 hereinabove, and by engaging
15 in a scheme of subterfuge to export dangerous drugs to Vietnam, as described in paragraphs 54
16 through 58 hereinabove.

17 67. The pharmacist license held by respondent LE is subject to discipline
18 under Business and Professions Code section 4300, for committing unprofessional conduct
19 within the meaning of Business and Professions Code section 4301(c), in that, respondent LE
20 committed acts of gross negligence for a pharmacist by furnishing dangerous drugs to unknown
21 persons in Vietnam without prescriptions for such drugs, as described in paragraphs 27 through
22 32 hereinabove, by acting in the capacity as a wholesaler without holding such a license issued
23 by the Board, as described in paragraphs 34 through 39 hereinabove, by transferring, selling or
24 delivering dangerous drugs to persons in Vietnam in violation of the California Pharmacy Act, as
25 described in paragraphs 41 through 45 hereinabove, and by engaging in a scheme of subterfuge to
26 export dangerous drugs to Vietnam, as described in paragraphs 54 through 58 hereinabove.

27 68. The pharmacy technician registration held by respondent NGUYEN is
28 subject to discipline under Business and Professions Code section 4300, for committing

1 unprofessional conduct within the meaning of Business and Professions Code section 4301(c), in
2 that, respondent NGUYEN committed acts of gross negligence for a pharmacy technician by
3 furnishing dangerous drugs to unknown persons in Vietnam without prescriptions for such drugs,
4 as described in paragraphs 27 through 32 hereinabove, by acting in the capacity as a wholesaler
5 without holding such a license issued by the Board, as described in paragraphs 34 through 39
6 hereinabove, by transferring, selling or delivering dangerous drugs to persons in Vietnam in
7 violation of the California Pharmacy Act, as described in paragraphs 41 through 45 hereinabove,
8 and by engaging in a scheme of subterfuge to export dangerous drugs to Vietnam, as described in
9 paragraphs 54 through 58 hereinabove.

10 OWNERSHIP PROHIBITION

11 69. Complainant incorporates herein by this reference the preamble and each
12 of the allegation set forth in paragraphs 1 through 25, 27 through 32, 34 through 39, 41 through
13 45, 47 through 52, 54 through 58, 60 through 62, and 64 through 68 hereinabove.

14 70. Business and Professions Code section 4307(a) provides that:

15 Any person who has been denied a license or whose license has been
16 revoked or is under suspension, or who has failed to renew his or her license while
17 it was under suspension, or who has been a manager, administrator, owner,
18 member, officer, director, associate, or partner of any partnership, corporation,
19 firm, or association whose application for a license has been denied or revoked, is
20 under suspension or has been placed on probation, and while acting as the
21 manager, administrator, owner, member, officer, director, associate, or partner had
22 knowledge of or knowingly participated in any conduct for which the license was
23 denied, revoke, suspended, or placed on probation, shall be prohibited from
24 serving as a manager, administrator, owner, member, officer, director, associate,
25 or partner of a licensee as follows:

21 (1) Where a probationary license is issued or where an existing license
22 is placed on probation, this prohibition shall remain in effect for a period not to
23 exceed five years.

23 (2) Where the license is denied or revoked, the prohibition shall
24 continue until the license is issued or reinstated.

25 71. At all times material herein, respondent TIEN VAN LE, as the Chief
26 Executive Officer of respondent NEWLAND PHARMACY, respondent PHAM, as the Treasurer
27 of NEWLAND PHARMACY, and respondent LE, as the Secretary of NEWLAND
28 PHARMACY, had knowledge of and knowingly participated in the conduct in paragraphs 12

1 through 25 hereinabove, which is the basis of this Accusation. Accordingly, in the event that the
2 Board revokes or suspends the pharmacy license of respondent NEWLAND PHARMACY based
3 on the charges contained in the Accusation, respondents, TIEN VAN LE, PHAM and LE, and
4 each of them, shall be prohibited from serving as a manager, administrator, owner, member,
5 officer, director, associate or partner of a pharmacy under the authority of Business and
6 Professions Code section 4307(a).

7 COST RECOVERY

8 72. Business and Professions Code section 125.3 provides that, in any order
9 issued in resolution of a disciplinary proceeding before any board within the Department of
10 Consumer Affairs, the board may request the Administrative Law Judge to direct a licentiate
11 found to have committed a violation or violations of the licensing act to pay a sum not to exceed
12 the reasonable costs of the investigation and enforcement of the case.

13 73. Under Business and Professions Code section 101(d), the California State
14 Board of Pharmacy was and is a board within the Department of Consumer Affairs of the State of
15 California. Pursuant to Business and Professions Code section 125.3, the Board hereby requests
16 the Administrative Law Judge who issues a Proposed Decision in this matter to include an Order
17 which provides for the recovery by the Board of the costs of investigation and enforcement of
18 this case against respondents, NEWLAND PHARMACY, PHAM, LE and NGUYEN, and each
19 of them, according to proof.

20 WHEREFORE, Complainant prays that a hearing be had and that the Board of
21 Pharmacy make its Order:

22 1. Revoking or suspending Pharmacist Permit Number PHY 43969 issued to
23 respondent NEWLAND PHARMACY, INC.

24 2. Directing respondent NEWLAND PHARMACY, INC., to pay the
25 California State Board of Pharmacy the reasonable costs of the investigation and prosecution of
26 this matter pursuant to Business and Professions Code section 125.3, according to proof.

27 3. Revoking or suspending Pharmacist License Number RPH 48698 issued to
28 respondent LIEU KIEU PHAM.

1 4. Prohibiting respondent LIEU KIEU PHAM from serving as a manager,
2 administrator, owner, member, officer, director, associate, or partner of a licensee, pursuant to
3 the provisions of Business and Professions Code section 4307(a).

4 5. Directing respondent LIEU KIEU PHAM to pay the California State
5 Board of Pharmacy the reasonable costs of the investigation and prosecution of this matter
6 pursuant to Business and Professions Code section 125.3, according to proof.

7 6. Revoking or suspending Pharmacist License Number RPH 45352 issued to
8 respondent DIEU-HOA THI LE.

9 7. Prohibiting respondent DIEU-HOA THI LE from serving as a manager,
10 administrator, owner, member, officer, director, associate, or partner of a licensee, pursuant to
11 the provisions of Business and Professions Code section 4307(a).

12 8. Directing respondent DIEU-HOA THI LE to pay the California State
13 Board of Pharmacy the reasonable costs of the investigation and prosecution of this matter
14 pursuant to Business and Professions Code section 125.3, according to proof.

15 9. Revoking or suspending Pharmacy Technician Registration Number TCH
16 11922 issued to respondent ANNE DAI THI NGUYEN, aka DAI THI NGUYEN.

17 10. Directing respondent ANNE DAI THI NGUYEN, aka DAI THI
18 NGUYEN, to pay the California State Board of Pharmacy the reasonable costs of the
19 investigation and prosecution of this matter pursuant to Business and Professions Code section
20 125.3, according to proof.

21 11. Prohibiting respondent TIEN VAN LE from serving as a manager,
22 administrator, owner, member, officer, director, associate, or partner of a licensee, pursuant to
23 the provisions of Business and Professions Code section 4307(a).

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12. Taking such further action as deemed necessary and proper.

DATE: 11/1/04

P. F. Harris
PATRICIA F. HARRIS
Executive Officer
California State Board of Pharmacy
Department of Consumer Affairs

Complainant